IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 11TH SEPTEMBER 2007 / 20TH BHADRA 1929

WP(C).No. 26983 of 2007(K)

PETITIONER:

BABU KURIAKOSE,
KUTTOOR, THIRUVALLA.

BY ADV. SRI.ARIKKAT VIJAYAN MENON
SRI.HARISANKAR V. MENON
SMT.MEERA V.MENON
SRI.MAHESH V.MENON

RESPONDENTS:

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1. SALES TAX OFFICER,
THIRUVALLA.

2. KERALA SALES TAX APPELLATE TRIBUNAL,
SASTHAMANGALAM,
THIRUVANANTHAPURAM.

3. TAHSILDAR (REVENUE RECOVERY),
TIRUVALLA.

BY G.P. SRI.SREEKRISHNA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

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W.P.(C) No.26983 of 2007

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Dated this the 11th day of September, 2007.

JUDGMENT

The petitioner has wrongly filed appeal before the Tribunal against revised assessment for 1994-95 which was issued after remand by the Tribunal. Since only first appeal is maintainable, appeal filed before the Tribunal is not maintainable. It is seen that the Tribunal has granted stay for a short period without noticing the mistake. From the said order it is clear that petitioner has made part payment of disputed tax. In the circumstances, W.P. is disposed of granting two weeks time to the petitioner to file an appeal against Ext.P3 before the first appellate authority. If appeal is filed, the first appellate authority will hear the petitioner and dispose of the appeal within three months from date of filing the same. In view of the payment of part of the disputed tax by the petitioner, there will be direction to third respondent to withhold recovery proceedings for four months from now. Recovery thereafter will be based on orders of the first appellate authority. However, if petitioner does not file appeal within two weeks, then third respondent can proceed for recovery after two weeks. If appeal

is filed as above, it should be treated as filed in time by the first appellate authority.

C.N.RAMACHANDRAN NAIR
Judge

pms